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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,510	11/30/2001	Larry W. Field	C0013	6565

21495 7590 11/24/2003  
CORNING CABLE SYSTEMS LLC  
P O BOX 489  
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EXAMINER

HOOK, JAMES F

ART UNIT PAPER NUMBER

3752

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,510

Applicant(s)

FIELD, LARRY W.

Examiner

James F. Hook

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3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 2,8-10,17,19-22 and 24-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,11-16,18 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Figure 7 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 2, 8-10, 17, 19-22, and 24-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshizawa (562). The patent to Yoshizawa discloses the recited inner duct having a central passage for a cable comprising a duct tube 11a (see figure 5) having an inner and outer surface, at least one passageway 12a disposed between the inner and outer surfaces, at least one optical fiber 13a received in the passageway, a cable 10a is provided in a central passageway of the inner duct where the use of the cable for transmission is considered merely intended use, where it is considered that the hose is capable upon providing no cable in the central passage of having a fiber optic density

greater than zero due to the presence of fiber optic fibers 13a in the passageways, and a wound strand 10a provided around the duct tube provided with an outer sheath 18a.

Claims 1, 3, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Trezequet. The patent to Trezequet discloses the recited inner duct having a central passage for a cable 2 comprising a duct tube 1 having an inner and outer surface, at least one passageway 3 disposed between the inner and outer surfaces, at least one optical fiber 4 received in the passageway, a cable 2 is provided in a central passageway of the inner duct where the use of the cable for transmission is considered merely intended use, where it is considered that the hose is capable upon providing no cable in the central passage of having a fiber optic density greater than zero due to the presence of fiber optic fibers 4 in the passageways, and a wound strand 7 provided around the duct tube provided with an outer sheath 8,9.

Claims 1, 3, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagman. The patent to Wagman discloses the recited inner duct having a central passage for a cable 11 comprising a duct tube 12 having an inner and outer surface, at least one passageway 14 disposed between the inner and outer surfaces, at least one optical fiber 15 received in the passageway, a cable 11 is provided in a central passageway of the inner duct where the use of the cable for transmission is considered merely intended use, where it is considered that the hose is capable upon providing no cable in the central passage of having a fiber optic density greater than zero due to the presence of fiber optic fibers 15 in the passageways, and an outer sheath 20 is provided around a wound strand 17 provided around the duct tube.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6, 12-16, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagman in view of Field. The patent to Wagman discloses all of the recited structure with the exception of forming the stranded member as a tube. The patent to Field discloses the recited inner duct comprising in one embodiment (figure 5) a central passage for a cable 74 comprising a duct tube 75 having an inner and outer surface, at least one passageway 73 disposed between the inner and outer surfaces, at least one optical fiber 72 received in the passageway, a cable 74 is provided in a central passageway of the inner duct where the use of the cable for transmission is considered merely intended use, where it is considered that the hose is capable upon providing no cable in the central passage of having a fiber optic density greater than zero due to the presence of fiber optic fibers 13a in the passageways, and in another embodiment a strand 26 is provided around the duct tube 24, where the strand can be formed as a tube to insure the safety of the wires 25 therein, thereby teaching that a closed strand can also be used. It would have been obvious to one skilled in the art to modify the wound strand in Wagman by forming the U shaped strand as a tubular strand as suggested by Field as such is an alternate way in which a strand can be provided for

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extra cables and would thereby prevent the escape of fibers as could be seen by an open ended U shaped trough which could lead to failure.

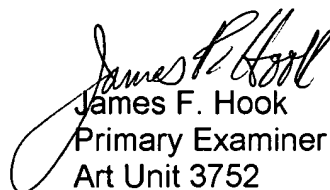
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Stenson, Wehner, Figenschou, Legallais, Opel, Sanoner, and Stottlemeyer disclosing state of the art fiber optic cable ducts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

  
James F. Hook  
Primary Examiner  
Art Unit 3752

JFH